

██████████,
Complainant,

v.

INDIANA UNIVERSITY HEALTH,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following Notice of Finding with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred. 910 IAC 1-3-2(b)

On July 22, 2011, ██████████ ("Complainant") filed a complaint with the Commission against Indiana University Health ("Respondent") alleging national origin and religious discrimination in violation of ██████████ the Indiana Civil Rights Law (IC 22-9, et seq.). Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have submitted evidence. Based on the final investigative report and a full review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated based on his national origin and/or religion. In order to prevail on such a claim, Complainant must show that: (1) he is a member of a protected class; (2) he suffered an adverse employment action; (3) he was meeting Respondents legitimate business expectations or (4) similarly-situated employees who failed to meet those same expectations were treated more favorably.

Complainant clearly is a member of a protected class because of his national origin and religion. In addition, there is no question that he suffered an adverse employment action when Respondent terminated his employment on July 1, 2011. The only remaining questions are whether or not Complainant was meeting Respondents legitimate business expectations or, if not, whether similarly-situated employees of a different religion or national origin received more favorable treatment.

Complainant indicated that he has a habit of scribbling notes to himself about anything and everything, and the notes that came to the attention of Respondent bear this out. In the notes, Complainant jotted down short references to all sorts of things, including female kitties, someone's sexy nose, medicines for AIDS and cancer, persons needing hospice care, along with names and phone numbers. The two sentences for which Respondent terminated Complainant were not

threats at all but brief references to newspaper headlines that had appeared in May 2011. He did not direct the comments at anyone and, although the notes referenced incidents of violence, there is nothing in those short notes which show he intended to harm anyone or to disrupt the workforce in any way. Based on the foregoing, it is impossible to show that Complainant was in violation of Respondent's written policies against disruption of the workplace or making threats to co-workers. The evidence otherwise indicates that Complainant was meeting Respondent's expectations for employment. Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice occurred.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged in the above-referenced case. IC 22-9-1-18, 910 IAC 1-3-5 The parties may elect to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election, or the Indiana Civil Rights Commission will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

December 15, 2011
Date

Joshua Sol Brewster, Esq.
Deputy Director
Indiana Civil Rights Commission